IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

WP(C).No. 22504 of 2007(D)

PETITIONER:

MEERA MAJEED, W/O ABDUL MAJEED,
ASLAM MANZIL, ERAYIL KADAVU,
KOTTAYAM.

BY ADV. SRI.LIJI.J.VADAKEDOM

RESPONDENTS:
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1. THE VILLAGE OFFICER,
PANACHIKKADU VILLAGE,
VILLAGE OFFICE, PANACHIKKADU,
KOTTAYAM.

2. THE REVENUE DIVISIONAL OFFICE-KOTTAYAM
OFFICE OF THE R.D.O.,
COLLECTORATE P.O.,
KOTTAYAM.

BY SR.GOVERNMENT PLEADER SRI.P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.22504/07

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE SALE DEED NO.412/06 OF THE SRO, PUTHUPPALLY.

EXT.P2: PHOTOCOPY OF THE TAX RECEIPT NO.3953930 DT.18.10.06 ISSUED FROM THE VILLAGE OFFICE,PANACHIKKADU.

EXT.P3: TRUE COPY OF THE NO OBJECTION CERTIFICATE DT.27.10.06 ISSUED FROM THEPANACHIKKADU GRAMA PANCHAYAT.

EXT.P4: TRUE COPY OF THE STOP MEMO DT.26.4.2006 ISSUED BY 1ST RESPONDENT.

EXT.P5: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DT.30.11.2006 TO THE 1ST RESPONDENT.

EXT.P6: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.

EXT.P7: STOP MEMO ISSUED BY THE 1ST RESPONDENT.

EXT.P8: TRUE COPY OF THE NOTIFICATION NO.19945/03/76/ID DT.23.12.2007.

EXT.P9: COPY OF THE CERTIFIED COPY OF THE JUDGMENT DT.11.2.2005 IN WP.3003/05

EXT.P10: COPY OF THE CERTIFIED COPY OF the JUDGMENT DT.1.8.05 IN WP(C) NO.21727/05.

//TRUE COPY//

ANTONY DOMINIC, J.
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W.P.(C) NO. 22504 OF 2007 D
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Dated this the 14th day of November, 2007

J U D G M E N T

The petitioner, who wants to remove red earth for the apparent reason of levelling the land was served with Ext.P4, a prohibition order issued by the 1st respondent. Thereupon the petitioner pursued the matter and finally the 1st respondent issued Ext.P7 prohibiting the petitioner from continuing the activities in the absence of a clearance from the 2nd respondent. It is in the aforesaid circumstances, this writ petition has been filed praying for quashing Exts. P4 and P7.

2. In the statement that has been filed by the respondents, it is stated that petitioner had resorted to indiscriminatory mining of red earth to the depth of about 40 feet. According to the respondents, this had exposed the Government Guest House, a heritage building, to danger. According to the respondents, it was only for protecting the property of the State and to preserve ecological balance of the area, that the 1st respondent had issued Ext.P4 memo. Petitioner

submits that on receipt of Ext.P4 stop memo from the 1st respondent, she had approached the 2nd respondent for redressal of her grievances. It is stated that on receipt of her representation, the 2nd respondent had forwarded the matter again to the 1st respondent without taking any decision. Petitioner also offers to leave a space of about 15 metres inside her property so that necessary lateral support is provided to the structures in the neighbouring land. In view of the above, I think the appropriate course adopted is to direct the 2nd respondent to examine the issue.

3. Accordingly, I dispose of this writ petition with the following directions.

(1) The petitioner shall file a detailed representation objecting to Exts. P4 and P7 to the 2nd respondent.

(2) On receipt of the representation to be filed by the petitioner as above, 2nd respondent shall enquire into the matter, hear the parties and thereafter take a decision as to whether the

petitioner should be permitted to continue removal of red earth from her property.

(3) The representation as above shall be filed within two weeks from today, in which event, the 2nd respondent shall conclude the enquiry and pass final orders within six weeks thereafter.

ANTONY DOMINIC, JUDGE.

Rp